

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

SIEMENS MEDICAL SOLUTIONS
HEALTH SERVICES CORPORATION,
formerly known as SHARED
MEDICAL SYSTEMS CORP.

Plaintiff

v.

PRESBYTERIAN COMMUNITY
HOSPITAL, INC.

Defendant

CIVIL NO. 97-2175 (JAG)

ACTION FOR BREACH OF CONTRACT

**MOTION FOR RECONSIDERATION, TO COMPEL THAT A SUPERSEDEAS
BOND BE POSTED, AND FOR RELATED RELIEF AGAINST JUDGMENT DEBTOR**

TO THE HONORABLE JAY A. GARCÍA GREGORY
UNITED STATES DISTRICT JUDGE:

COMES NOW, plaintiff Siemens Medical Solutions Health Services Corporation, formerly known as Shared Medical Systems Corp. ("SMS") and, through its undersigned counsel, respectfully states and prays as follows:

1. On September 11, 2002, this Honorable Court entered a judgment against defendant, Presbyterian Community Hospital, Inc. (the "Hospital") in the amount of \$575,000.00, plus post-judgment interest. Furthermore, on November 26, 2002, an Order by this Honorable Court granted SMS the amount of \$5,414.30 in costs.

2. On December 5, 2002, pursuant to Rule 69(d) of the Federal Rules of Civil Procedure, SMS filed a "Motion Requesting Order for Execution of Judgment" (docket no. 194; the "Motion for Execution"), and the attachment of the Hospital's real and personal property to satisfy the judgment amount of \$575,000.00 and \$5,414.30 in costs entered by the Court.

3. On December 18, 2002, defendant appealed to the United States Court of Appeals for the First Circuit both the judgment and the Opinion and Order granting costs to SMS. To date, no scheduling order by the First Circuit Court of Appeals has been issued.

4. On January 10, 2003, the Hospital filed an opposition to the Motion for Execution filed by SMS (docket no. 200).

5. On February 18, 2003, SMS filed a reply to defendant's opposition to the Motion for Execution.

6. On September 22, 2003, this Honorable Court entered two orders (docket no. 212). In the first order, the Court denied SMS' Motion for Execution without prejudice. In the second order, the Court directed the Hospital to post a supersedeas bond in the amount of \$50,000.00.

7. To date, more than five (5) months after the issuance of these orders, the Hospital has not posted the required supersedeas bond.

8. On the other hand, the Hospital recently announced a \$12 million investment to add a wing and expand medical services. See **Exhibit A**.

9. It is evident that the Hospital is utilizing the money that would eventually pay for the judgment in this case for other purposes (including but not necessarily limited to the expansion of its facilities). This increases the danger of insufficiency of assets to satisfy the judgment in this case.

10. In view of the above, SMS respectfully requests that the Court reconsider its orders of September 22, 2003, by ordering the Hospital to post immediately a supersedeas bond for the total amount of the judgment of \$575,000.00, plus post-judgment interest, and \$5,414.30 in costs; and that upon failure to do so within eleven days after entry of order, that orders of execution be issued.

11. SMS also respectfully requests that sanctions be imposed on the Hospital for its failure to comply with the order of September 22, 2003 (docket no. 212).

WHEREFORE, plaintiff herein respectfully requests that the Court: (a) reconsider its orders of September 22, 2003 (docket no. 212) and order the Hospital to post immediately a supersedeas bond for the total amount of the judgment of \$575,000.00, plus post-judgment interest, and \$5,414.30 in costs; (b) if the Hosptial fails to post such supersedeas bond within eleven calendar days after entry of order, then issue

execution orders; (c) impose sanctions on the Hospital for its failure to comply with the order of September 22, 2003; and (d) grant SMS such other and further relief as may be just and proper.

Respectfully submitted, in San Juan, Puerto Rico this 4th day of March, 2004.

I HEREBY CERTIFY that on this same date a copy of the foregoing was sent to Rafael Baella-Silva, Esq., P.O. Box 363213, San Juan, Puerto Rico 00936-3213; and to Jaime Sifre, Esq. and Gerardo de Jesús Annoni, Esq., Sánchez, Betances & Sifre, P.O. Box 195055, San Juan, Puerto Rico 00919-5055.

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